

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

APPROVED 5/10/10

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 26th day of April 2010 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Donald Bollin-President	Jay Lambert
	JoAnne Arruda-Vice President-Absent	Cecil E. Leonard
	Hannibal Costa	Edward Roderick
	Louise Durfee	

Town Administrator, James C. Goncalo and Assistant Town Solicitor Jeanne Scott were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Councilor Lambert requested removal of item A-5, Planning Board recommendation regarding Zoning Ordinance Text and Map Amendment request submitted by the Tiverton Yacht Club-Continued from January 25th for Ethics Advisory Opinions-Further continued to May 10th. Council President Bollin requested removal of item A-6, a request for 5K Run/Walk and Bike Ride.

Councilor Leonard made a motion, seconded by Councilor Costa to approve the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes from Regular Council Meeting April 12, 2010
- b. Approval of Executive Session Minutes of April 12, 2010

A-2-Receipt of Minutes from Various Board and Commissions:

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| a. Economic Development Commission | e. Wastewater Management Commission |
| b. Tiverton Library Committee | f. Prevention Coalition |
| c. Zoning Board of Review | g. Board of Canvassers |
| d. Cemetery Commission | h. Municipal Bldg Adv Committee |
| | i. Recreation Commission |

A-3-Correspondence:

- a. Received Resolution Opposing Mandatory Binding Arbitration Legislation from Town of Middletown, Town of West Warwick, Town of East Greenwich and City of East Providence
- b. Received Resolution Opposing "Endless Contracts from Town of West Warwick Town of Middletown and City of East Greenwich
- c. Received Resolution Encouraging Return of 34th America's Cup Challenge to Newport from Town of Charlestown, City of East Providence, Town of Warren and Town of Narragansett

- d. Received Resolution Supporting Establishing a “Blue Alert” Program from Town of Jamestown and Town of Narragansett
- e. Received Resolution Urging General Assembly Enact legislation for Bicyclist safety from Town of Jamestown
- f. Received Resolution Supporting Legislation Requiring Seat belts on School Buses from Town of Warren
- g. Received Resolution Supporting Legislative Amendments to Protect RI Cities and Towns and Public Officials/Employees from City of East Providence
- h. Received Resolution Supporting Relief of Mandated Programs from Town of West Warwick
- i. Received Resolution Supporting Postponing Budget and FTM’s for Fiscal Year 2010-11 from Town of Foster
- j. Received from Town of South Kingstown Acknowledging Tiverton’s Proposed Legislation to Allow Postponing FTM for FY 2011
- k. Received from Town of North Kingstown Resolution Supporting RI National Guard Living Memorial Donation

A-4-Planning Board - Draft Zoning Ordinance Text Amendment Regarding New Article Titled “Wind Energy Conversion Facilities” – Request Public Hearing June 14th

BUSINESS BROUGHT BEFORE THE COUNCIL

Planning Board Recommendation Regarding Zoning Ordinance Text and Map Amendment Request Submitted by the Tiverton Yacht Club - Continued From January 25th for Ethics Advisory Opinions – Further Continued to May 10th

Councilor Lambert questioned the need to continue and whether any Councilors received responses from the Ethics Commission. Councilor Lambert also requested historical background information when this item comes up again.

Alex Cacheco – a. Request Approval for 5K Run/Walk and Bike Ride Memorial for John Toulon on July 31 with Rain Date of August 7th Subject to Meeting Police Chief Requirements – Chief Memo Attached b. Approval of Public Hearing for Noise Variance at 69 Nanaquaket on July 31st for Live Music on May 24th

President Bollin questioned the use of Bettencourt Lane, believed to be a private road, listed in the 10-mile ride. Chief Blakey had preliminary talks with the applicant, asked this item be continued for further review.

Councilor Durfee made a motion, seconded by Councilor Roderick to continue this item to the first meeting in May. Motion passed unanimously.

Councilor Lambert made a motion, seconded by Councilor Roderick to continue the Zoning Map item, #5, to the first meeting in May. Motion passed unanimously.

The Town Council was sitting as the Board of Licensing Commissioners:

BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:

Charles R. Mulcahy, 65 Beech Avenue – Request Approval of Annual Renewal of Private Detective License – April 13, 2010 to April 12, 2011 – Subject to Meeting All Legal Requirements – Response from Chief Blakey - Continued from April 12th Meeting

Chief Blakey noted there were no disqualifiers for this applicant, recommended approval.

Councilor Durfee made a motion to approve the renewal of a Private Detective License for Charles R. Mulcahy, subject to meeting all legal requirements, for the term stated, April 13,2010 to April 12,2011. Seconded by Councilor Costa motion passed unanimously.

Roger N. Dupont, 28 Salisbury Street – Request Approval of Annual Renewal of Private Detective License – May 15, 2010 to May 14, 2011 – Subject to Meeting All Legal Requirements – Response from Chief Blakey

Chief Blakey recommended approval, as there were no disqualifiers for this applicant.

Councilor Durfee made a motion to approve the renewal request for a Private Detective License for Roger N. Dupont, subject to meeting all legal requirements, for a term of May 15,2010 to May 14,2011. Seconded by Councilor Roderick motion passed unanimously.

Nancy Walker, dba Artisan Antiques, 2423 Main Road – Request Approval of Antique License – Subject to Meeting All Legal Requirements

Councilor Roderick made a motion to approve an Antiques License for Nancy Walker, d/b/a Artisan Antiques, 2423 Main Road, subject to meeting all legal requirements. Seconded by Councilor Costa motion passed unanimously.

UNFINISHED BUSINESS:

Approval of Petition for Verizon New England and Narragansett Electric for Three New Joint Poles and Relocate One Joint Pole on Cornell Road Response From S. Berlucchi, DPW Director – Continued for Solicitor Review From April 12th Meeting – Solicitor Response Attached

The request for approval of Joint Poles and relocation of another pole on Cornell Road was continued for Solicitor review. In reviewing the Solicitor's memo, Councilor Roderick questioned whether existing poles needed to be looked at or if this is just for future requests. President Bollin noted this is simply stating these poles cannot be used for anything else; no other services can be attached.

Councilor Durfee made a motion, seconded by Councilor Leonard, to approve the request for three new Joint Poles and the relocation of one Joint Pole on Cornell Road, subject to the conditions of the provisions as put forth by the Town Solicitor memo dated April 21,2010. Motion passed unanimously.

Town Treasurer, P. DiMattia – Distribution of Quarterly Investment Reports Continued From April 12th Meeting

Councilor Durfee handed out copies of the Investment Report dated February 28,2010 which shows Washington Trust having a CD for two months for \$4 million dollars at a rate of .85%. At the following meeting the Council received another report. Trying to track down the first report CD due 3/18/10, looking at the next report, unable to determine what happened to the CD due on the 18th. Shows a balance of \$500,000 yet at a very reduced rate. Asked the Treasurer what happened to the initial CD that came to term on 3/18/10 Councilor Durfee pointed out the \$4 million dollar balance showed a date of deposit of 2/15/10, looking like it was called in early for lower rate. The Treasurer replied that was reinvested on term monthly basis at the current rate of .65%.

Treasurer DiMattia explained the CD goes out for 30 days and then another 30 days. The rate is what was agreed to at 60 days. Councilor Roderick questioned why lose interest if it was locked in at .85%. Treasurer DiMattia will look into matter and report back to the Council. Councilor Durfee requested a report in writing from the Treasurer so the Council knows where it stands. Treasurer DiMattia was concerned about the security of the funds, keeping funds for subsequent payrolls. Councilor Durfee pointed out the \$4 million on 1/21/10 invested for 60 days has been rolled over the last 5 months. There was a better rate for 5 months than a roll over for 60 days. Treasurer DiMattia said he needed to see what came in for tax collections, talking about less than 1%, have to have a back up plan.

Councilor Durfee questioned why such a large amount of money is in Washington Trust. Treasurer DiMattia noted the flexibility, did not want to go out extensively for a short period. The Councilor also questioned why BankNewport, a local community bank, did not have investments. Treasurer DiMattia noted the summary sheet did not include the Cemetery funds or the School Bond interest, noting the limitations of \$250,000, Washington Trust distributes the liability with Cedar CD's and other banks put up collateral. The Treasurer's concerns were safety of the funds and meeting debts and obligations.

Councilor Durfee asked the Treasurer to provide a report to the Council with comparable rates, wants to see how the rates compare to other institutions. Councilor Lambert noted the report would be helpful from an

informational standpoint, as a Council should avoid second-guessing the Treasurer. The Council may not have all the factors, have to be careful, urge the Council avoid any suggestion they may be directing the Treasurer. Councilor Durfee was concerned about irreconcilable reports. If any of the information is confidential, the matter could be discussed in Executive Session. Concerned the Town is missing opportunities. The Treasurer welcomed ideas and suggestions.

Town Council – Standby Motion to Approve Excess Levy for Financial Town Meeting – Continued From March 22nd Council Meeting – Relocated on Agenda and Not Discussed

This item was on the last agenda and not discussed. Councilor Costa wanted to know what would happen if the Financial Town Meeting (FTM) voted to exceed and the Council did not approve. Assistant Solicitor Scott noted there was no way to lessen the contention at this point. One interpretation is the majority of electors vote to approve the excess levy at the FTM and then to the Council; other position is if needed then it's already written.

President Bollin noted the motion would come from the floor of the FTM, if a number exceeds the cap and they vote in the affirmative, then the vote exceeds. Councilor Lambert noted if following the arguments, nobody has to explain a basis for a motion at the FTM. President Bollin noted the explanation has to be that in doing so a vote in the affirmative will exceed the cap. Councilor Durfee noted the FTM was coming up very quickly and would be in the hands of the voters. Councilor Roderick agreed. Solicitor Scott noted the wording states "not just a majority of electors, states shall also".

Councilor Leonard noted this differs from what Solicitor Teitz gave the Council earlier, what he verbally explained if FTM wanted to vote down they could. President Bollin noted if a number is voted and exceeds what the State allows the Town would have to find another way to raise the money. The Council had previously voted to find out that number. Administrator Goncalo noted it was just a request, the Dept. of Revenue has a new Director and the temporary Chief did not want to make any decisions.

Councilor Leonard raised two issues-does the Council needs this resolution and what happens at the FTM. Councilor Leonard motioned to vote down the standby resolution. Councilor Lambert seconded the motion to vote down. Discussion followed.

Councilor Durfee said there should be a motion to table or take no action. Dave Nelson, questioned the Town Administrator on a related matter about documents sent to the State regarding a waiver. Councilor Durfee noted again the Town has not applied for a waiver, have just asked for information, want to know the parameters if the vote at the FTM is to exceed Councilor Lambert believed the Standby Motion to be totally irrelevant. President Bollin noted the point of the FTM is to vote on a number, imperative of the Council to tell what would happen, sees no reason to pass a Standby Motion. Councilor Leonard disagreed with the motion to table, could be seen as trying to influence. The Budget Committee has done their job, the Council respectfully disagreed, the School Committee also disagreed, now is up to the voters. Can deal with this after the FTM.

Rob Coulter, Vice Chairman of the Budget Committee, noted the Town did not have to spend everything in the Budget. President Bollin noted the Budget Committee's way was to cut spending and reallocate funds.

Councilor Leonard repeated his motion to disallow the Standby Motion. President Bollin did not see a vote of the Council as influencing anyone, feels under the circumstances the Standby Motion is not necessary. Councilor Roderick moved the question. The motion in favor of disapproving the Standby Motion passed on a vote of 3-2-1, Councilors Lambert, Roderick and Leonard voting to disapprove, Councilor Durfee and Bollin in favor of Standby Motion and Councilor Costa abstained. The Standby Motion was disapproved.

NEW BUSINESS:

Gary Plunkett, Representative to East Bay Energy Consortium – Request Permission to Erect a 150-meter "MET" Tower at the Industrial Park to Measure Wind Velocities

Garry Plunkett, Tiverton representative to the East Bay Energy Consortium, appeared before the Council to request permission to erect a Meteorological tower at the Industrial Park to collect wind data. The “MET” tower is for data collection only, does not commit the Town. Noted a typo in the request, the towers are 50 meter towers, not 150 meters. President Bollin wanted to know how the recently enacted moratorium on wind turbines affected this request. Mr. Plunkett stated this instrument was essentially an anemometer. President Bollin wanted to make sure there was no conflict; Mr. Plunkett did not see any, as this is a temporary device and he had worked on the draft ordinance so aware.

Councilor Durfee made a motion, seconded by Councilor Leonard, to grant permission to erect a “MET” tower at the Industrial Park. Councilor Roderick noted this was for a 50-meter tower. Councilor Costa questioned the list of location the Consortium has. Mr. Plunkett explained the Consortium has done preliminary screening of possible sites, rough categorization of the best sites, need to collect data, investors want a year’s worth of data, won’t cost the Town. Will submit a report from consortium in next few weeks. Motion passed on a vote of 5-1, Councilor Costa opposed.

Economic Development Commission – Brief Informational PowerPoint Presentation Informing Council and Public of May 27th Public Meeting to Promote Tiverton Economic Development

Len Schmidt, Chair of the Economic Development Commission (EDC), gave a brief PowerPoint presentation on the newly designed website. There will be a public meeting on May 27th at the new Family Ties restaurant location, 221 Main Road, informing the public about the EDC. The EDC wants people to know the Town is open for business, EDC agenda and mission statement as well as recent activities. The meeting will also introduce the website and other promotional activities. Encourage public participation, questions; the keynote speaker will be Keith Stokes. Looking for dialogue, interested in hearing input. There is a new tax stabilization policy. Looking for more help on the EDC, business incentives, expanding list of business on website. The website is funded by the Newport County Chamber of Commerce. President Bollin thanked Mr. Schmidt for the presentation.

Laura Epke, Municipal Buildings Feasibility Advisory Committee Chair

a. Clarification of Committee’s Charge

Laura Epke, Chair of the Municipal Buildings Feasibility Advisory Committee (MBFAC), was seeking clarification of the Committee’s charge with regards to recommending financing options and if that was within the Committee’s purview. Wanted to make sure the Council and the Committee are on the same page, part of the recommendations would include cost benefit analysis. Ms. Epke noted the Council resolution prompted further discussion. President Bollin noted the idea of the FTM Council resolution to sell Town buildings was so the Council wouldn’t have to wait should the need arise to sell. Councilor Durfee noted the more information the Council is given the better including financing options and any other recommendations within their purview. Administrator Goncalo did not think any analysis would be complete without a financial recommendation.

Councilor Durfee made a motion, seconded by Councilor Lambert, the recommendations include financing options and any recommendations to the proceeds from sale be included. Councilor Leonard reminded the Council, depending on the timing, could be put on the November ballot. Councilor Costa wanted to get the information as soon as possible. Motion passed unanimously.

b. Permission to Include Municipal Buildings Survey in Tax Bill Mailing

Ms. Epke asked the Council for permission to include a survey in the tax bill mailings. Tax Collector, Toni Lyn McGowan, looked into the mailing, if provided by the Town and delivered there is no fee if it doesn’t exceed the weight requirement, can insert up to four sheets.

Councilor Leonard made a motion, seconded by Councilor Costa, to approve the inclusion of a survey by the Buildings Committee to go out with the tax bills. Councilor Roderick amended the motion to pay for the mailings and the copying out of Council contingency. The Town Clerk will help with the copying costs. Motion passed unanimously.

Town Administrator – Request Council Ratification of Extension of Department Head Contracts With No Cost Impact to June 2011

a. Police Chief Thomas Blakey

b. Senior Director Janice Gomes

c. Wastewater Superintendent John Lincourt

d. Tax Assessor David Robert

e. Planner Christopher Spencer

Administrator Goncalo requested approval of contract extensions for five department heads. There is no cost impact, terms extended, have not had salary increases for two years, if given a performance review Town obligated to a salary increase, job evaluation, reserves the right to give them a salary increase if feasible and if the money is available. President Bollin noted the problem is that this refers to an extension of a contract, meaning this was negotiated. Councilor Roderick pointed out this is not an extension because those contracts have expired. Noting need to get contracts finalized.

Councilor Costa made a motion, the words “extension of” be deleted and the contracts as listed here becomes an employment contract and be ratified. President Bollin also noted the problem with taking out “extension is evaluation clause, better to have an amendment to a contract than take a provision out. Councilor Roderick noted the Administrator still needed to come up with a contract, noting no one was notified within 30 days of current expiration. Councilor Costa withdrew his motion.

Councilor Roderick made a motion to table this request until the Solicitor reviews the proposed extensions. Administrator Goncalo noted the Solicitor had already reviewed the extensions. Councilor Durfee suggested calling this an amendment to a contract and referencing that contract. Councilor Costa pointed out this is an expired contract. Councilor Costa then made a motion to continue this under Executive Session. President Bollin noted this does not fall under the provisions for Executive Session. Solicitor Scott noted Executive Session was for Collective Bargaining.

Councilor Roderick then made a motion to continue to next meeting. Councilor Costa seconded motion. Solicitor Scott pointed out the Council can extend and amend at the same time. Councilor Roderick noted the last paragraph, title Extension, was crossed off on each one. Motion passed unanimously.

BIDS & REQUESTS FOR PROPOSALS:

Recreation Commission – Request Approval to Award Bid for Fencing on Bulgarmarsh Road Playground – Recommendation Cosco, Inc., Woonsocket, RI for \$5,900

Councilor Durfee made a motion, seconded by Councilor Roderick to award the Bid for Fencing on Bulgarmarsh Road to Cosco, Inc., Woonsocket, RI for \$5,900.

Councilor Leonard questioned where the money was coming from. Administrator Goncalo was awaiting reimbursement from DEM for \$34,000 as part of the State Grant. President Bollin noted the motion should be subject to receipt of the funds.

Councilor Durfee made an amended motion, seconded by Councilor Roderick to award the Bid for Fencing on Bulgarmarsh Road to Cosco, Inc. Woonsocket, RI for \$5,900 subject to receipt of the funds from the DEM Grant. Councilor Costa, noting the other bidder was local, asked the Solicitor if it was illegal to award a bid to a higher bidder. Solicitor Scott noted there was some discretion, the lowest price is not the only factor, the ad states the Town reserves the right to reject any or all bids. Motion passed unanimously.

Recreation Commission – Request Approval to Award Bid for Coating & Striping Bulgarmarsh Road Recreation Basketball Courts

Administrator Goncalo noted this was the only bidder.

Councilor Durfee made a motion to award the Bid for Coating & Striping the Basketball Courts at Bulgarmarsh Road Recreation to Frank E. Clynes, Inc. for \$10,875.00 subject to receipt of the Grant money from DEM. Seconded by Councilor Costa motion passed unanimously.

Fogland Beach Oversight Committee – Request Approval to Award Bid for Fogland Beach Survey/Mapping Project to Civil Engineering Concepts, Inc., Little Compton for \$14,950

There were two bids received for the Fogland Survey. The bid from Able Engineering was for four of the five phases. The bid from Civil Engineering included all five phases. There is \$15,000 in the carryover account for this survey.

Councilor Durfee made a motion, seconded by Councilor Roderick to award the Bid for Fogland Beach Survey/Mapping Project for \$14,950 to include all phases, to Civil Engineering Concepts, Inc., Little Compton. Motion passed unanimously.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS

1. Tax Collections mailed 924 delinquent notices totaling \$1,278,728 for Real Estate, Motor Vehicle and Tangibles.
2. Received a letter from RI Board of Health thanking our EMA crew and volunteers who vaccinated 494 adults plus school students with the H1N1 vaccine.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Lambert - Financial Town Meeting

Councilor Lambert submitted this agenda request should the appropriate legislation to cancel the May 8th Town Meeting be enacted. At this time there is really no purpose to consider this request. Dave Nelson, TCC, questioned the Administrator about the Notice of Proposed Tax Rate Change of 9% filed with the State. President Bollin noted he only signed a Notice on 4/6/10. According to Mr. Nelson the State is now looking at two different rate change notices, one for 4.3% and one for 9.4%. President Bollin noted the Town Council instructed the Administrator to ask for an advisory opinion based on the relevant numbers. Administrator explained Mr. Nelson was taking the documents out of context. There was a cover letter to the Department of Revenue with that document and two other related worksheets that are all labeled “Request for Information” Administrator Goncalo asked Mr. Nelson to compare what was at the top of the 3/4/10 document and the document in question that does not have President Bollin’s signature which states is just an inquiry.

Councilor Durfee noted the Administrator was asking for information the taxpayers are entitled to at the FTM. They have to know what the parameters are. Councilor Lambert noted when this was discussed the first time the problems using the “Checklist” and the amounts that had to be filled in. President Bollin noted the Council did tell the Administrator to inquire, the Council did not tell what to put in the letter, will not chastise him. President Bollin signed the document that had to be published. Councilor Lambert noted it was a 5-2 vote of the Council for the inquiry.

Rob Coulter was concerned about the taxpayers being noticed properly with regards to the notice included with the letter of inquiry, no legal notice of a cap break, cited 45-3, Property Cap disclosure law. Concerned there is a separate document floating around Councilor Durfee again explained that document was included with the letter of inquiry only and not advertised or made public. Administrator Goncalo questioned Mr. Nelson as to where he got the documents, which could only have come from the Administrator, Treasurer or Budget Committee.

Town Clerk, Nancy Mello, informed Mr. Coulter she published the 4/6/10 official notice. The warrant also gives notice, have proceeded according to the Charter and State. Nowhere has the Administrator’s “inquiry” documents been made part of any office notice.

Councilor Costa formally objected to any further discussion since item is not on agenda.

TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS;

CLOSED EXECUTIVE SESSION:

1.Town Solicitor - Litigation – 42-46-5(a) (2)

2.Town Solicitor - 42-46-5(a)(6) – Prospective Business or Industry

Councilor Durfee made a motion, seconded by Councilor Roderick to enter into Executive Session pursuant to 42-46-5(a)(2)- Litigation. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Roderick to remain in Executive Session pursuant to 42-46-5(a)(6) – Prospective Business or Industry. Motion passed unanimously.

The Council entered into Executive Session at approximately 9:30 p.m.

The Council returned to Open Session at approximately 9:45p.m.

OPEN SESSION:

Council President Bollin announced no formal action had been taken in Executive Session.

Councilor Roderick motioned to seal the minutes of Executive Session, seconded by Councilor Costa Motion passed unanimously.

ADJOURNMENT:

Councilor Costa motioned to adjourn, seconded by Councilor Leonard. Motion passed unanimously.

Council adjourned at approximately 9:55 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk